IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9908 OF 2004

M/s.Girish Textile Industries .. Petitioner.

V/s.

The Commissioner of Central
Excise Mumbai - II & Others .. Respondents.

Mr.A.M. Sachwani for the petitioner.

Mr.A.J. Rana, Senior counsel with Mr.H.V. Mehta & Mr.Y.R. Mishra i/b. S.S. Sarkar for respondent Nos.1 to 3.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 15TH DECEMBER, 2004.

P.C. :

Heard.

2. Rule. Returnable forthwith.

3. The advocate on record for revenue waives service.

4. By consent rule is treated on board for final hearing.

5. During the course of hearing, the learned counsel for the petitioner handed in demand draft

dated December 14, 2004 for a sum of Rs.15,00,000/- in the pay account of Central Excise, Mumbai-III. The demand draft has been handed over to Shri H.V. Mehta, the advocate on record for the revenue.

6. We are thus satisfied that the delay in depositing the sum of Rs.15,00,000/- as directed by the Customs, Excise and Service Tax Appellate Tribunal, West Regional Bench at Mumbai vide its order dated December 8, 2003 deserves to be condoned and consequently the appeal that has been dismissed by the Tribunal for non compliance deserves to be restored to file.

7. We, accordingly, dispose of the rule by following order.

i) The order dated February 13, 2004 passed by the Customs, Excise & Service Tax Appellate Tribunal, West Regional Bench at Mumbai is set aside.

ii) The appeal No.E/1876/02-Mum before the Customs, Excise & Service Tax Appellate Tribunal, West Regional Bench at Mumbai is restored to file for hearing and

disposal in accordance with law.

iii) The petitioner is directed to appear before the Customs, Excise & Service Tax Appellate Tribunal, West Regional Bench at Mumbai on January 10, 2005.

8. No costs.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)